

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 AID-05 CEA-01 CIAE-00 COME-00 EB-04

EA-06 FRB-01 INR-05 IO-10 NEA-06 NSAE-00 RSC-01

OPIC-03 SP-02 TRSE-00 CIEP-01 LAB-01 SIL-01 SWF-01

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TO SECSTATE WASH DC 4244

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E.O. 11652: N/A

TAGS: ETRD, ENRG, EWWT, OECD

SUBJECT: ENERGY TRANSPORTATION SECURITY ACT

REFS: A) STATE 231037; B) DAF/MTC/74.23;

C) USOECD 18789; D) C/M(74)13 (PROV.) ANNEX

1. SUMMARY. OECD MEMBER GOVERNMENTS HAVE THROUGH DELEGATIONS TO OECD MEETINGS EXPRESSED GRAVE CONCERN OVER POSSIBLE ENACTMENT OF THE ENERGY TRANSPORTATION SECURITY ACT. MTC WAS TOLD MARITIME TRANSPORT OFFICIALS OF SEVEN COUNTRIES MET HERE TO COORDINATE REPRESENTATIONS AT HIGH LEVEL IN WASHINGTON. OTHER REMARKS AND MISSION ANALYSIS INDICATE ENACTMENT OF ACT COULD EVOKE CRITICISM UNDER TRADE PLEDGE AND POSSIBLY UNDER OECD INVISIBLES CODE. END SUMMARY.

2. SEVERAL DELEGATIONS EXPRESSED GRAVE CONCERN ABOUT ACT DURING OCT 23-24 MTC MEETING. UK DEL CITED "INFLATIONARY AND STRATEGIC EFFECTS" OF BILL AND "BAD EXAMPLE IT SETS FOR OTHERS." HE SAID (IN PLENARY SESSION) THAT BILL HAD BEEN DISCUSSED IN AD HOC MEETING IN PARIS OF UK, SWEDEN, DENMARK, NORWAY, FINLAND, NETHER-

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LANDS AND GREECE, WHICH AGREED THAT THEIR RESPECTIVE

AMBASSADORS IN WASHINGTON SHOULD BE INSTRUCTED TO PRESENT DEMARCHES DIRECTLY TO THE WHITE HOUSE IF THE BILL IS PASSED.

3. SWEDISH DEL TO MTC ASKED TO WHAT EXTENT CONGRESS, STATE DEPARTMENT AND WHITE HOUSE HAD CONSIDERED THE FACT THAT THE ACT WOULD VIOLATE INTERNATIONAL TREATIES AND OBLIGATIONS, I.E., TREATIES OF FRIENDSHIP, NAVIGATION AND COMMERCE AND THE OECD TRADE PLEDGE. US DEL REPLIED THAT CONGRESS WAS FULLY INFORMED OF OBLIGATIONS AND DEMARCHES.

4. NORWEGIAN DEL EXPRESSED "DEEP CONCERN" ABOUT LEGISLATION AND REFERRED TO FACT, REPORTED IN PARA 16 OF MT 74/7, THAT ARAB OIL PRODUCERS WILL HAVE CONSIDERABLE TANKER TONNAGE IN NEAR FUTURE, WHICH HE TOOK AS EXACERBATING THE SERIOUS CONSEQUENCES OF THE ACT. DENMARK, FINLAND AND THE NETHERLANDS ALSO VOICED CONCERN ABOUT BILL'S EFFECT ON SHIPPING AS A WHOLE.

5. COMMENT. QUESTION PUT BY SWEDISH DEL RECALLS VIEW EXPRESSED PRIVATELY TO US LAST SUMMER BY UK DELEGATION MEMBER (REF C). SHE RAISED POSSIBILITY THAT ENERGY TRANSPORT BILL MIGHT, IF ENACTED, CONTRAVENE DECLARATION ADOPTED MAY 30 BY OECD GOVERNMENTS TO COUNTER PRESSURES TOWARD BEGGAR-THY-NEIGHBOR POLICIES. PLEDGE APPLIES TO CURRENT ACCOUNTS MEASURES SUCH AS SHIPPING AS WELL AS TO TRADE. WHILE BRITISH DECIDED TO MAKE ONLY AN IMPLIED REFERENCE TO US BILL IN COUNCIL AT THAT TIME, WE CAN EXPECT QUESTION TO BE REVIVED IF AND WHEN THE BILL IS ENACTED. IT IS VERY POSSIBLE THAT SOME DELEGATES MIGHT ASK FOR ACT TO BE EXAMINED WITHIN

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THE OECD FRAMEWORK TO DETERMINE WHETHER IT IS CONTRARY TO PLEDGE; IN ADDITION TO IMPACT ON INTEGRITY OF THE PLEDGE, US WOULD BE IN WEAKER POSITION TO PRESS FOR RENEWAL OF PLEDGE, WHICH WAS ADOPTED FOR ONE YEAR, IF IT IS ON DEFENSIVE CONCERNING TRANSPORT ACT.

6. IT IS DOUBTFUL THAT ACT WOULD BE FOUND TO VIOLATE US OBLIGATIONS UNDER OECD CODE OF LIBERALIZATION OF CURRENT INVISIBLE OPERATIONS, BUT ONLY BECAUSE SECOND SENTENCE OF "NOTE 1" IN CODE, WHICH DESCRIBES CERTAIN MEASURES (SUCH AS THOSE GIVING PREFERENCE TO NATIONAL FLAG SHIPS) THAT WOULD CONTRAVENE CODE, DOES NOT APPLY TO US ALONE AMONG COUNTRIES ADHERING TO CODE. ACTION WOULD CLEARLY BE AT VARIANCE WITH SPIRIT OF CODE, HOWEVER, WHICH EXPLICITLY INCLUDES (IN FIRST SENTENCE OF NOTE 1) INTENTION "TO GIVE RESIDENTS OF ONE MEMBER STATE THE UNRESTRICTED OPPORTUNITY TO AVAIL THEMSELVES OF, AND PAY FOR, ALL SERVICES IN CONNECTION WITH INTERNATIONAL MARITIME TRANSPORT WHICH ARE OFFERED BY RESIDENTS OF ANY OTHER MEMBER STATE."

7. AN ADDITIONAL POINT TO BE CONSIDERED IS THE RELATIONSHIP OF THE BILL TO US ATTEMPTS TO SCUTTLE THE PROPOSED UN LINER CONFERENCE CODE, WHICH WOULD ESTABLISH CARGO SHARING AS THE NORM ON A BROAD SCALE FOR COMMERCIAL CARGOES. THE OECD COMMITTEE FOR INVISIBLES TRANSACTIONS IS CURRENTLY STUDYING QUESTION OF WHETHER OR NOT PROPOSED UN LINER CONFERENCE CODE IS INCOMPATIBLE WITH OECD INVISIBLES CODE. A NEW US CARGO PREFERENCE SYSTEM WOULD LEND STRENGTH TO OECD MEMBERS (FRANCE, BELGIUM, GERMANY, JAPAN, SPAIN) WHO OPPOSE THE INCOMPATIBILITY FINDING DESIRED BY USG.

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